

रजिस्टर्ड नं० पी० ६७



राजपत्र, हिमाचल प्रदेश

(असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, सोमवार, २४ मार्च, १९६९/३ चंद्र, १८६१

GOVERNMENT OF HIMACHAL PRADESH

VIDHAN SABHA SECRETARIAT

NOTIFICATION

Simla-4, the 6th March, 1969

No. 1-5/69-V.S.—In pursuance of Rule 135 of the Rules of Procedure and Conduct of Business of the Himachal Pradesh Legislative Assembly, 1964, the following three bills as introduced in the Legislative Assembly

३५-गजट-२४-३-६९—४८४.

(२२३)

मूल्य: १३ पैसे

on the 6th March, 1969 are hereby published in the Himachal Pradesh Government Gazette:—

1. The Himachal Pradesh Agricultural Produce Markets Bill, 1969 (Bill No. 1 of 1969).
2. The Himachal Pradesh Bricks (Control) Bill, 1969 (Bill No. 2 of 1969).
3. The Himachal Pradesh Instruments (Control of Noises) Bill, 1969 (Bill No. 3 of 1969).

SURENDRANATH,
Under Secretary.

Bill No. 1 of 1969

THE HIMACHAL PRADESH AGRICULTURAL PRODUCE MARKETS BILL, 1969

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A BILL

to consolidate and amend the law relating to the better regulation of the purchase, sale, storage and processing of agricultural produce and the establishment of markets for agricultural produce in Himachal Pradesh.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twentieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh Agricultural Produce Markets Act, 1969.

(2) It extends to the whole of Himachal Pradesh.

(3) It shall come into force at once.

2. In this Act, unless there is anything repugnant in the subject or context,—

Short title,
extent and
commence-
ment.

Definitions.

(a) "Agricultural produce" means all produce whether processed or not, of agriculture, horticulture, animal husbandry or forest as specified in the schedule to this Act;

(b) "Board" means the Himachal Pradesh Marketing Board constituted under section 3;

(c) "broker" means an agent who in consideration of a commission, fee or reward merely negotiates and brings about a contract for the purchase or sale of notified agricultural produce on behalf of his principal but does not receive, deliver, transport, pay for the purchase of, or collect the payment for the sale of the notified agricultural produce;

(d) "committee" means a market committee established and constituted under sections 9 and 10;

(e) "Director" means the Director of Agriculture for Himachal Pradesh and includes any officer appointed by the State Government to perform all or any of the functions of the Director under this Act;

(f) "godown-keeper" means a person, other than a producer, who stores agricultural produce for himself for sale or stores agricultural produce of others in lieu of storage charges;

(g) "market" means a market established and regulated under this Act for the notified market area and includes a market proper, a principal market yard and sub-market yard;

(h) "producer" means a person who, in his normal course of avocation, grows, manufactures, rears or produces, as the case may be, agricultural produce personally, through tenants or otherwise, but does not include a person who works as a dealer or a broker or who is a partner of a firm of dealers or brokers or is otherwise engaged in the business of disposal or storage of agricultural produce other than that grown, manufactured, reared, or produced by himself, through his tenants or otherwise. If a question arises as to whether any person is a producer or not for the purposes of this Act, the decision of the Deputy Commissioner of the district in which the person carries on his business or profession shall be final:

Provided that no person shall be disqualified from being a producer merely on the ground that he is a member of a co-operative society;

Explanation.—The term 'producer' shall also include tenant.

- (i) "dealer" means any person who, within the notified market area, sets up, establishes or continues or allows to be continued any place for the purchase, sale, storage or processing of agricultural produce notified under sub-section (1) of section 4 or purchases, sells, stores or processes such agricultural produce;
- (j) "market proper" means any area including all lands with the buildings thereon, within such distance of the principal market or sub-market yard, as may be notified in the Official Gazette by the State Government to be a market proper;
- (k) "co-operative society" means a co-operative society of producers registered under the provisions of the Co-operative Societies Act for the time being in force, which deals in the purchase, sale, processing or storage of agricultural produce, or is otherwise engaged in the business of disposal of agricultural produce;
- (l) "State Government" or "Government" means the Government of Himachal Pradesh;
- (m) "notification" means notification published under proper authority in the Rajpatra, Himachal Pradesh;
- (n) "notified market area" means any area notified under section 4;
- (o) "prescribed" means prescribed by rules made under this Act;
- (p) "principal market yard" and "sub-market yard" mean an enclosure, building, locality or other area declared to be a principal market yard and sub-market yard under section 5;
- (q) "trade allowance" includes an allowance having the sanction of custom in the notified market area concerned and market charges payable to various functionaries;
- (r) "retail sale" means sale of agricultural produce not exceeding such quantity as may be prescribed;
- (s) "Secretary" means the executive officer of a committee and includes an Assistant Secretary or a person officiating or acting as Secretary; and
- (t) "Marketing Officer" means the Marketing Officer for Himachal Pradesh in the Department of Agriculture.

3. (1) The State Government may, for exercising the powers conferred on, and performing the functions and duties assigned to, the Board by or under this Act, establish and constitute a Himachal Pradesh Marketing Board consisting of 15 members of whom 5 shall be officials and 10 non-officials to be nominated by the State Government in the following manner:—

- (a) the official members shall include the Director, the Marketing Officer and 3 other officials as nominated by the State Government;
- (b) of the non-official members,—
 - (i) two shall be producer members of the committees;
 - (ii) four shall be other progressive producers of Himachal Pradesh;
 - (iii) three shall be from among such persons licenced under section 8 who are members of the committees;
 - (iv) one representing co-operative societies.

(2) The Director and the Marketing Officer shall respectively be the *ex-officio* Chairman and the Secretary of the Board.

(3) The Board shall be a body corporate as well as local authority by the name of the Himachal Pradesh Marketing Board, having perpetual

succession and a common seal, with power, subject to the provisions of this Act, to acquire and hold property and shall, by the said name, sue and be sued.

(4) The term of the office of the non-official members of the Board shall be three years.

(5) No person shall be eligible to become a member of the Board who:—

- (a) does not ordinarily reside within Himachal Pradesh;
- (b) is below 25 years of age;
- (c) has been removed under sub-section (7) or section 13;
- (d) is of unsound mind; or
- (e) has been declared as insolvent or sentenced by a criminal court, whether within or outside Himachal Pradesh for an offence involving moral turpitude:

Provided that the disqualification under clause (e) on the ground of a sentence by a criminal court shall not apply after the expiry of four years from the date on which the sentence of such person has expired.

(6) A member of the Board may resign from membership by tendering his resignation to the State Government through the Chairman of the Board and the seat of such member shall become vacant on the date of acceptance of his resignation.

(7) The State Government may remove any non-official member of the Board who has become subject to any of the disqualifications specified in sub-section (5) or who is, in its opinion, unfit to act as a member or remiss in the discharge of his duties or whose continuance as a member of the Board is considered to be prejudicial to its interest and may appoint another member in his place in the manner as prescribed in sub-section (1), from the category to which the removed member belongs:

Provided that before removing a member, the reasons for the proposed action shall be conveyed to him and his reply invited within a specified period and duly considered:

Provided further that the term of office of the member so appointed shall expire on the same date as the term of office of the vacating member would have expired had the latter held office for the full period allowed under sub-section (4).

(8) Four members shall constitute a quorum at a meeting of the Board. All questions that may come up before a meeting of the Board shall be determined by a majority of votes of the members present and voting and in case of equality of votes, the Chairman may exercise a casting vote:

Provided that if a meeting is adjourned for want of quorum, no quorum shall be necessary at the next meeting called for transacting the same business.

(9) (a) An estimate of the annual income and expenditure of the Board for the ensuing year shall be prepared by the Board and submitted for sanction to the Government not later than the first week of February each year. On the sanction of the budget by the Government, the Board shall have power to operate upon it.

(b) The State Government shall sanction and return the budget within two months from the date of the receipt thereof. If it is not received within two months it shall be presumed to have been sanctioned.

(10) Subject to the provisions of this Act and the rules and bye-laws made thereunder, the Board may employ such persons for the performance of the functions of the Board under this Act, and may give them such remuneration, as it may think fit, and may suspend, remove, dismiss or otherwise punish any person so employed.

(11) The Chairman of the Board and its Secretary shall have the same powers as are respectively conferred under the financial rules of the Central Government on the Head of Department and Head of Office and exercise such other powers and discharge such other duties as may be prescribed.

(12) The State Government shall exercise superintendence and control over the Board and its officers and may call for such information as it may deem necessary and, in the event of its being convinced that the Board is not functioning properly, or is abusing its powers or is guilty of corruption or mis-management, it may suspend the Board and, till such time as a new Board is constituted, make such arrangement for the exercise of the functions of the Board as it may think fit.

(13) The Board shall exercise superintendence and control over all market committees established and constituted under this Act.

(14) The Chairman of the Board may, on administrative grounds, transfer employees of one market committee to another, and of a market committee to the Board and *vice-versa*.

(15) The Board may delegate any of its powers to the Chairman, Secretary, or officers of the Board.

(16) The Board or the Chairman of the Board or its Secretary or any other officer authorised by the Board shall have the power to call for any information, records or returns relating to agricultural produce from a market committee or a dealer or other functionaries and shall also have the power to inspect the accounts of a market committee or a dealer or other functionaries and in case any irregularity comes to its or his notice shall have the power to suspend or cancel the licence of any licensee.

(17) The State Government may delegate to the Board or its Chairman any of the powers conferred on it by or under this Act.

(18) No act or proceeding of the Board shall be invalid by reason only of the existence of any vacancy among its members or any defect in the constitution thereof.

(19) The Board may, with the prior approval of State Government, by notification, declare its intention of exercising control over the purchase, sale, storage and processing of such agricultural produce, and in such area as may be specified in the notification. Such notification shall state that any objections or suggestions which may be received by the Board within a period to be specified in the notification, will be considered:

Provided that such period shall not be less than one month.

Declaration
of notified
market
area.

4. (1) After the expiry of the period specified in the notification under section 3 (19) and after considering such objections and suggestions as may be received before the expiry of the specified period, the Board may, by notification and in any other manner that may be prescribed, declare the area notified under section 3 or any portion thereof to be notified market area for the purposes of this Act in respect of the agricultural produce notified under section 3 or any part thereof.

(2) The Board, if satisfied that in any notified market area, a committee is not functioning or two such areas or a part of any such areas is to be amalgamated with another such areas or is to be constituted into a separate notified market area may, by notification, denotify any market area notified under sub-section (1) or any part thereof and, when the whole of such area is denotified, cancel a committee and transfer all the assets of that committee which remain after satisfaction of all its liabilities to the Board. Such assets shall be utilised by the Board for such objects in the area as it may consider to be for the benefit of the producers of that area:

Provided that the liabilities of the Board shall not extend beyond the assets so vested.

(3) After the date of issue of such notification or from such later date as may be specified therein, no person, unless exempted by rules framed under this Act, shall, either for himself or on behalf of another person, or of the Government within the notified market area, set up, establish or continue or allow to be set up, established or continued any place for the purchase, sale, storage and processing of the agricultural produce so notified, or purchase, sell, store or process such agricultural produce except under a licence granted in accordance with the provisions of this Act, the rules and bye-laws made thereunder and the conditions specified in the licence:

Provided that a licence shall not be required by a producer who sells himself or through a bonafide agent, not being a commission agent, his own agricultural produce or the agricultural produce of his tenants on their behalf or by a person who purchases any agricultural produce for his private use.

(4) For the removal of doubts, it is hereby declared that a notification published in the Official Gazette under this section or section 3 shall have full force and effect notwithstanding any omission to publish or any irregularity or defect in the publication of a notification under this section or under section 3, as the case may be.

5. (1) For each notified market area, there shall be one principal market yard and one or more sub-market yards as may be necessary.

Declaration of market yards.

(2) The Board may, with the prior approval of State Government, by notification, declare any enclosure, building, locality or other area in any notified market area to be principal market yard for the area and other enclosures, buildings, localities or other areas to be one or more sub-market yards for the notified market area.

6. On and after the date on which the Board has, by a notification under section 5, declared any place to be a principal or sub-market yard no person or municipal committee, district board, panchayat or any local authority, notwithstanding anything contained in any enactment relating to such municipal committee, district board, Panchayat or local authority shall be competent to set up, establish or continue or allow to be continued any place within the limits of such market or within a distance thereof to be notified in the Official Gazette in this behalf in each case by the State Government for the purchase, sale, storage and processing of agricultural produce:

No private market to be opened in or near places declared to be markets.

Provided that a producer shall not be deemed to set up, establish or continue or allow to be continued a place as a market for the purpose of the purchase, sale, storage or processing of agricultural produce if he sells

his own agricultural produce outside the premises set apart by the committee for the purpose of purchase, sale, storage and processing of agricultural produce.

Authority to whom applications for grant of licences are to be made.

7. The Secretary of the Board or any officer authorised by the Chairman in writing in this behalf, shall be an authority for granting licences required under section 4(3).

Applications for licences, fees to be paid and cancellation or suspension of licences.

8. (1) Any person may apply to the authority specified in section 7 for a licence which shall be granted for such period, in such form, on such conditions and on payment of such fees not exceeding Rs. 100, as may be prescribed:

Provided that if any person carrying on any business of the nature specified in sub-section (3) of section 4 in a notified market area fails to apply for a licence on or before such date as the Board may, by notification, appoint in respect of that area, the licensing authority may refuse to grant him a licence until after the expiry of such period not exceeding three years as it may think fit:

Provided further that the Board may, in its discretion, issue a licence to such person and may, before issuing such licence, impose such penalty not exceeding two thousand rupees as it may think fit.

(2) The Board or its Chairman or Secretary or any other officer authorised by the Board may, on being satisfied that there has been a breach of any of the conditions specified in a licence, by an order in writing, cancel or suspend such licence, and may also direct that such licence shall not be renewed for such period not exceeding five months for a first breach and not exceeding nine months for a second breach as may be specified in that order:

Provided that no such order shall be passed without giving the licensee an opportunity to show cause why such an order should not be passed:

Provided further that the Chairman of a Committee or its Secretary may, under intimation to the Secretary of the Board, suspend a licence for a period not exceeding 15 days.

(3) The Secretary of the Board may, after such inquiry as he may consider necessary, refuse a licence to a person who in his opinion—

- (a) is a benamidar for or a partner with any person to whom a licence has been refused, or whose licence is cancelled or suspended under sub-section (2), for the period of such cancellation or suspension;
- (b) is convicted of an offence affecting the said person's integrity as a man of business, within two years of such conviction; or
- (c) is undischarged insolvent:

Provided that no such order shall be made without giving such person an opportunity to show cause why such an order should not be made.

Establishment of market committee.

9. The Board shall, by notification, establish a market committee, for every notified market area and shall specify its headquarters.

10. (1) A market committee shall consist of nine or sixteen members as the Board may, in each case, determine.

Constitu-
tion of the
committee.

(2) Of these members, one may be appointed by the Board from amongst the salaried servants of the Government by virtue of his office.

(3) The remaining members shall be appointed by the Board out of a panel of names equal to twice the number of vacancies to be filled in the manner provided hereunder, that is to say—

(a) if the committee is to consist of nine members, there shall be appointed:—

(i) five members from the producers of the notified market area; and

(ii) three members from the persons licensed under section 8 from the notified market area;

(b) if the committee is to consist of sixteen members, there shall be appointed:—

(i) nine members from the producers of the notified market area; and

(ii) six members from the persons licensed under section 8 from the notified market area.

(4) The panel of the names will be given by the Deputy Commissioner concerned.

(5) Whenever any member dies, resigns, ceases to reside in Himachal Pradesh or becomes incapable of acting as a member of the committee, the Board, in its discretion, may, on the submission of another panel, or in default of such panel, appoint another person to be a member in his stead.

(6) No act done by the committee shall be called into question on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the committee.

(7) Subject to rules made under this Act, the disqualifications specified in sub-section (5) of section 3 shall also apply for purposes of becoming a member of a committee.

11. (1) It shall be the duty of the market committee and Secretary, market committee—

Duties and
powers of
committees.

(a) to enforce the provisions of this Act and the rules and bye-laws made thereunder in the notified market area and, when so required by the Board, to establish a market therein providing such facilities for persons visiting it in connection with the purchase, sale, storage, weighing, and processing of agricultural produce concerned as the Board or Chairman of the Board may, from time to time, direct;

(b) to control and regulate the admission to the market, to determine the conditions for the use of the market and to prosecute or confiscate the agricultural produce belonging to person trading without a valid licence;

(c) to bring, prosecute or defend or aid in bringing, prosecuting or defending any suit, action, proceeding, application or arbitration, on behalf of the committee or otherwise when directed by the Board or the Chairman of the Board; and

(d) to grade and standardise specified agricultural produce.

(2) Subject to such rules as the State Government may make in this behalf, it shall be the duty of the Secretary, market committee, to issue licences

to brokers, weighmen, measurers, surveyors, godown-keepers and other functionaries for carrying on their occupation in that notified market area in respect of agricultural produce and to renew, suspend or cancel such licences.

(3) No broker, weighman, measurer, surveyor, godown-keeper or other functionary shall, unless duly authorised by a licence, carry on his occupation in a notified market area in respect of the agricultural produce.

(4) Every person licensed under sections 8 and 11 and every person exempted under section 4 from taking out licence, shall on demand by the committee or its Secretary or any person authorised by it in this behalf, furnish such records, information and returns, as may be necessary for the proper enforcement of the Act or the rules and bye-laws made thereunder.

Term of
office of
members.

12. Subject to the provisions of section 15, every member shall hold office for a period of three years from the date of his appointment, and if, when such period expires, no person has been appointed to succeed him, such member shall, unless the Board otherwise directs, continue to hold office until his successor is appointed.

Removal of
members.

13. The Board may, at any time during the period of his office, remove, by notification, any member, if such member has, in its opinion, been guilty of misconduct or neglect of duty or has lost the qualifications on the strength of which he was appointed, provided that before the Board notifies the removal of a member under this section, the reasons for his proposed removal shall be communicated to the member concerned and he shall be given an opportunity of tendering an explanation in writing.

Election of
Chairman
and Vice-
Chairman.

14. (1) Every market committee shall elect from among its members a Chairman and a Vice-Chairman.

(2) The committee may, by a majority of two-third of the total members at a meeting specially convened for the purpose, pass a resolution for the removal of any of the office bearers and any resolution so passed shall be subject to confirmation by the Board.

Filling of
vacancies.

15. (1) If through death, resignation, retirement, transfer or removal, in accordance with the provisions of section 13, any vacancy occurs, the Board may appoint a member to fill such vacancy in accordance with the provisions of section 10:

Provided that the term of office of the member so appointed shall expire on the same date as the term of office of the vacating member would have expired had the latter held office for the full period allowed under section 12.

(2) Should the Board decide to raise the number of members of an existing committee from 9 to 16, the additional vacancies shall be filled in accordance with the provisions of sub-section (1) and the term of office of the additional members appointed shall expire with the existing members of the committee.

16. Every market committee shall be a body corporate as well as local authority by such name as the Board may specify in the notification establishing it, shall have perpetual succession and a common seal, may sue and be sued in its corporate name and shall, subject to the provisions of section 28, be competent to acquire and hold property both movable and immovable, to lease, sell or otherwise transfer any movable or immovable property which may have become vested in, or been acquired by it, and to contract and to do all other things necessary for the purposes for which it is established:

Incorporation of committee.

Provided that no committee shall permanently transfer any immovable property except in pursuance of a resolution passed at a meeting specially convened for the purpose by a majority of not less than three-fourth of the members of the committee and with the prior approval of the Chairman of the Board.

17. The market committee may appoint two or more of its members to be a sub-committee or to be a joint committee for the conduct of any work or to report on any matter and may delegate to such committee or to any two or more of its members such of its powers or duties as it thinks fit.

Appointment of sub-committee joint committee and delegation of powers.

18. (1) Every market committee shall have a Secretary deputed by the State Government from amongst the trained Agricultural Inspectors (Marketing) on the recommendation of the Chairman of the Board on such terms and conditions as may be prescribed.

Appointment and salaries of officers and servants of committee.

(2) With the previous approval of the Chairman of the Board, a market committee may employ such officers and servants as may be necessary and proper for the management of the market and may pay such officers and servants salaries as fixed by the Board for different cadres:

Provided that where the basic pay of an employee is less than 50 rupees, the previous approval of the Chairman of the Board for appointment will not be necessary.

(3) Every officer or servant against whom an order of punishment has been made by a committee shall be entitled to appeal to the Board within a period of thirty days from the date of the order appealed against:

Provided that the appellate authority may, for sufficient cause, entertain the appeal, if made after the expiry of the aforesaid period.

(4) In computing the period of thirty days, the period spent for obtaining a copy of the order appealed against shall be excluded and a copy of the order shall be supplied to the person concerned free of cost.

(5) Any person aggrieved by the order of the appellate authority may further appeal to the State Government within a period of thirty days of the date of the appellate order; and the provisions of the proviso to sub-section (3) and sub-section (4) shall apply to such further appeal in the same manner as they apply to an appeal under sub-section (3).

(6) The services of the Secretary or any employee shall be transferable from one market committee to another market committee and from a market committee to the Board and *vice-versa*.

Persons who are public servants within the meaning of section 21 of Indian Penal Code.

19. Every member and officer or servant of the Board and of a market committee shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

45 of 1860

Execution of contracts.

20. (1) Every contract entered into by a market committee shall be in writing and shall be signed on behalf of the market committee by the Chairman or if, for any reason he is unable to act, by the Vice-Chairman and two other members of the committee and shall be sealed with the common seal of the committee.

(2) No contract other than a contract executed as provided in sub-section (1) shall be binding on a market committee.

Levy of fee.

21. The market committee shall levy, on advalorem basis, fees on agricultural produce bought or sold by licensees in the notified market area at the rate not exceeding one rupee for every one hundred rupees as may be fixed by the Board:

Provided that—

(a) no fee shall be leviable in respect of any transaction in which delivery of the agricultural produce bought or sold is not actually made; and

(b) a fee shall be leviable only on the parties to a transaction in which delivery is actually made.

Octroi not payable on certain agricultural produce.

22. Notwithstanding anything to the contrary contained in the Himachal Pradesh Municipal Act, 1963 the State Government may, by notification, direct that in respect of such agricultural produce, notified under section 4, brought or received within a notified market area as may be specified in the notification, no octroi shall be payable by any person to a municipal committee from such date as may be specified therein.

19 of 1968

Himachal Pradesh Marketing Board Fund.

23. (1) All receipts of the Board shall be credited into a fund to be called the Himachal Pradesh Marketing Board Fund. All expenditure incurred by the Board shall be defrayed out of the said fund which shall be jointly operated upon by the Chairman and the Secretary or any officer authorised by them.

(2) This fund shall be utilised for the following purposes:—

- (i) better marketing of agricultural produce;
- (ii) marketing of agricultural produce on co-operative lines;
- (iii) collection and dissemination of market rates and news;
- (iv) grading and standardisation of agricultural produce;
- (v) general improvement in the markets or their respective notified market area;
- (vi) maintenance of the office of the Board and construction and repair of its office buildings, rest house and staff quarters;
- (vii) giving aid to financially weak committees in the shape of loans and grants;
- (viii) payment of salary, leave allowance, gratuity, compassionate allowance, compensation for injuries or death resulting from accidents while on duty, medical aid, pension or provident fund to the persons employed by the Board and leave and pension contribution to Government servants on deputation;

- (ix) travelling and other allowances to the employees of the Board or its members;
- (x) propaganda, demonstration and publicity in favour of agricultural improvement;
- (xi) production and betterment of agricultural produce;
- (xii) meeting any legal expenses incurred by the Board;
- (xiii) imparting education in marketing or agriculture;
- (xiv) construction of godowns;
- (xv) loans and advances to the employees;
- (xvi) expenses incurred in auditing the accounts of the Board;
- (xvii) with the previous sanction of the State Government, any other purpose which is calculated to promote the general interest of the Board, committees or national or public interest.

24. (1) All moneys received by a market committee shall be paid into a fund to be called the "Market Committee Fund". All expenditure incurred by the market committee under or for the purposes of this Act shall be defrayed out of the said fund, and any surplus remaining after such expenditure has been met, shall be invested in such manner as may be prescribed by rules.

Market
Committee
Fund.

(2) (a) Every market committee shall, out of its fund, pay to the Board, 20 per cent of the moneys received by it on account of the Board office expenses and such other expenses incurred by it in the interest of the marketing committee generally and also pay to the Government the cost of any special or additional staff employed by the Government in consultation with the committee for giving effect to the provisions of this Act in the notified market area.

(b) The Government shall determine the cost of such special or additional staff and shall, where the staff is employed for the purposes of more market committees than one, apportion such cost among the committees concerned in such manner as it thinks fit. Its decision determining the amount payable by any market committee shall be final.

25. Subject to the provisions of section 24, the market committee fund shall be expended for the following purposes:—

- (i) the acquisition of a site or sites for the market;
- (ii) the maintenance and improvement of the market;
- (iii) the construction and repair of buildings which are necessary for the purposes of such market and for the health, convenience and safety of the persons using it;
- (iv) the provision and maintenance of standard weights and measures;
- (v) the pay, leave allowances, gratuities, compassionate allowances, and contributions towards leave allowances or provident fund of the persons employed by the market committee;
- (vi) the collection and dissemination of information regarding all matters relating to crop statistics and marketing in respect of the agricultural produce concerned and propaganda in favour of agricultural improvement;
- (vii) providing comforts and facilities such as shelter, shade, parking accommodation and water for the persons, draught cattle and pack animals coming to the market and similar other purposes;
- (viii) the expenses incurred in auditing the accounts of the committees and expenses incurred in the maintenance of the offices;

Purposes
for which
the market
committee
fund may
be expended.

- (ix) the payment of interest of loans that may be raised for purposes of the market and the provision of a sinking fund in respect of such loans;
- (x) for the payment of travelling allowance to the members of the market committee and employees of the committee as prescribed;
- (xi) production and betterment of agricultural produce;
- (xii) meeting any legal expenses incurred by the committee;
- (xiii) loans and advances to the employees;
- (xiv) with the previous sanction of the Board, any other purpose which is calculated to promote the general interests of the committee or the notified market area or any other purpose calculated to promote the national interest.

No trade allowance permissible except as prescribed by rules or bye-laws.

26. No trade allowance, other than allowance prescribed by rules or bye-laws made under this Act, shall be paid or received in a notified market area by any person in any transaction in respect of the agricultural produce concerned and no civil court shall, in any suit or proceeding arising out of any such transaction, recognise any trade allowance not so prescribed:

Provided that all market charges shall be paid by the buyers.

Bar of suit in absence of notice.

27. (1) No suit shall be instituted against the Board or a committee or any member or employee thereof or any person acting under the direction of any such body or member or employee for anything done or purporting to be done under this Act, until the expiration of two months next after a notice in writing, stating the cause of action, the name and place of abode of the intending plaintiff and the relief which he claims, has been, in the case of a Board or Committee delivered to him or left at its office, and in the case of any such member, employee or person as aforesaid, delivered to him or left at his office or usual place of abode, and the plaint shall contain a statement that such notice has been delivered, or left.

(2) Every such suit shall be dismissed unless it is instituted within six months from the date of the accrual of the cause of action.

Power to borrow.

28. (1) The market committee may, with the previous sanction of the Board, raise the money required for carrying on the purposes for which it is established on the security of any property vested in and belonging to the market committee and of any fees leviable by the market committee under this Act.

(2) The market committee may, for the purpose of meeting the initial expenditure on lands, buildings, and equipment required for establishing the market, obtain a loan from the Government on such conditions and subject to such rules as may be prescribed.

(3) A committee may, with the previous approval of the Chairman of the Board, obtain loans from other committees on such conditions, and subject to such rules, as may be prescribed.

Acquisition of land for the Board and committees.

29. (1) When any land is required for the purposes of this Act, the State Government may, on the request of the Board or a committee requiring it, proceed to acquire it under the provisions of the Land Acquisition Act, 1894, and on payment by the Board or committee of the compensation awarded under that Act and of all other charges incurred by the State Government on account of the acquisition, the land shall vest in the Board or committee.

(2) The Board or a committee shall be deemed to be a local authority for the purposes of the Land Acquisition Act, 1894.

1 of 1894

1 of 1894

30. (1) If, in the opinion of the Board, a market committee is incompetent to perform or persistently makes default in performing the duties imposed on it by or under this Act, or abuses its powers, the Board may, by notification, supersede such committee:

Supersession of market committees.

Provided that before issuing a notification under this sub-section, the Board shall give a reasonable opportunity to the market committee for showing cause against the proposed supersession and shall consider the explanations and objections, if any, of the market committee.

(2) Upon the publication of the notification under sub-section (1) superseding a market committee, the following consequences shall ensue:—

- (a) all the members including Chairman and Vice-Chairman of the market committee shall, as from the date of such publication, be deemed to have ceased to be members of the committee;
- (b) all the assets of the committee shall vest in the Board and it shall be liable for all the legal liabilities of the committee subsisting at the date of its supersession upto the limit of the said assets;
- (c) the Board may, at its discretion, by order, constitute either a new committee as provided under section 10 or such other authority for the carrying out of the functions of the committee as the Board may deem fit.

(3) (a) When the Board, has made an order under clause (c) of sub-section (2), the assets and liabilities defined in sub-section (2) (b) vesting in the Board at the date of such order shall be deemed to have been transferred on the date of such order to the new committee or authority constituted as aforesaid.

(b) (i) Where the Board by order under clause (c) of sub-section (2), has appointed an authority other than a new committee for the carrying out of the functions of the superseded committee, the Board may, by notification, determine the period for which such an authority shall act. Such period shall not be longer than three years:

Provided that the term of office of such authority may be terminated earlier if the Board for any reason considers it necessary.

(ii) On the expiry of the term of office of such authority, a new committee shall be constituted.

(iii) Upon such an order being made, the assets and liabilities vesting in the authority thereby superseded, shall be deemed to have been transferred by such order to the new committee.

(4) Whenever the assets of a committee vest in the Board and no new committee or authority is appointed in its place, the Board shall employ the balance of the assets remaining after the discharge of the subsisting legal liabilities of the said committee for any object of public utility in the area specified in the notification issued under section 3.

31. If at any time the State Government is satisfied that a situation has arisen in which the purposes of this Act cannot be carried out in accordance with the provisions thereof, it may, by notification,—

Emergency power.

- (a) declare that the functions of the market committee shall, to such extent as may be specified in the notification, be exercised by the

Board or such person or persons as the State Government may direct;

- (b) assume to itself all or any of powers vested in, or exercisable by, a committee; and such notification may contain such incidental and consequential provisions as may appear to the State Government to be necessary or desirable for giving effect to the objects of the notification.

Penalties.

32. (1) Any person who contravenes any of the provisions of section 4 or section 6 or section 26 or the rules or bye-laws made thereunder shall, on conviction, be punishable with simple imprisonment which may extend to 90 days, or with fine which shall not be less than fifty rupees but may extend to five hundred rupees, or with both, and in the case of a continuing contravention, with a fine which, in addition to such fine as aforesaid, may extend to thirty rupees for every day after the date of first conviction during which the contravention is continued.

(2) Any person who contravenes any of the provisions of this Act or the rules or bye-laws made thereunder, except the provisions of section 4 or section 6 or section 26, shall be punishable with fine which may extend to Rs. 200 and in the cases of continuing contravention, with a further fine of Rs. 20 for every day subsequent to the date of first conviction for which the contravention has continued.

Power to make rules.

33. (1) The State Government may, make rules, consistent with this Act, for carrying out all or any of the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for:—

- (i) the appointment of members of the Board and market committees;
- (ii) the powers to be exercised and the duties to be performed by the market committee or the Board, their officers and servants;
- (iii) the election of the Chairman and Vice-Chairman of market committee, their powers and term of office;
- (iv) the filling of casual vacancies in the office of members or in the office of Chairman or Vice-Chairman of the market committee;
- (v) the time, place and manner in which a contract between buyer and seller is to be entered into and the money is to be paid to the seller;
- (vi) generally for the guidance of the market committees;
- (vii) management of the market, maximum fees which may be levied by the Board in respect of the agricultural produce bought or sold by licensees in any notified market area and the recovery and disposal of such fees;
- (viii) the issue by a market committee of licences to brokers, weighmen, measurers, surveyors and godown-keepers or other functionaries, the form in which, and the conditions under which, such licences shall be issued or renewed and the fees, if any, to be charged therefor;
- (ix) the place or places at which the agricultural produce shall be weighed, the kind and description of the scales, weights and measures which alone may be used in transactions in agricultural produce in a notified market area;
- (x) the inspection, verification, regulation, correction and confiscation of scales, weights and measures in use in a notified market area;
- (xi) the trade allowances which may be made or received by any person in any transaction in an agricultural produce in a notified market area;

- (xii) the provision of facilities for the settlement, by arbitration, or otherwise, of any dispute between a buyer and a seller of agricultural produce or their agents including disputes regarding the quality or weight of the article, the price or rate to be paid, allowances for wrapping, dirt or impurities or deductions for any cause;
- (xiii) the prohibition of brokers from acting in the same transaction on behalf of both the buyer and the seller of agricultural produce;
- (xiv) the provision of accommodation for storing any agricultural produce brought into the market;
- (xv) the preparation of plans and estimates for works proposed to be constructed partly or wholly at the expense of a market committee or the Board and the grant of sanction to such plans and estimates;
- (xvi) the form in which the accounts of a market committee shall be kept, the audit and publication of such accounts, and the charges, if any, to be made for such audit;
- (xvii) the management and regulation of provident funds which may be established by market committee or Board for the benefit of its employees;
- (xviii) the preparation and submission for sanction of an annual budget and the reports and returns to be furnished by the Board or market committees;
- (xix) the investment and disposal of the surplus funds of the Board or market committees;
- (xx) the manner in which auctions of agricultural produce shall be conducted and bids made and accepted in any market;
- (xxi) determining the scale of fees payable for the issue or renewal of licences and for prescribing the form of a licence and the conditions under which a licence shall be issued to dealers;
- (xxii) fixing the maximum annual fees which may be levied by the market committee in respect of licences granted and maximum fees which may be levied on the agricultural produce bought or sold in the notified market area and the recovery of such fees;
- (xxiii) exemption of persons or classes of persons from the obligation of obtaining licences under section 4;
- (xxiv) specifying the authority to which applications for obtaining licences shall be made;
- (xxv) the realisation or disposal of fees recoverable under the Act or under any rules or bye-laws made under this Act;
- (xxvi) the travelling expenses that may be paid to the members and employees of the Board and committees;
- (xxvii) the settlement of any question as to whether any person is producer or not;
- (xxviii) the grading and standardisation of the agricultural produce, the prevention of adulteration of the agricultural produce;
- (xxix) imposing on the persons holding licences under this Act, the duty of making returns to committees at regular intervals of transactions of sale, purchase, storage and processing done by them, and of producing accounts and records for inspection and furnishing information when called by an authority empowered and prescribing the form and mode of verification of and the particulars to be entered in, such returns as well as the nature of such information;

- (xxx) the payment to the employees of the Board and market committee or leave allowance, gratuities or compassionate allowance and contribution to any provident fund which may be established for the benefit of such employees;
- (xxxi) the penalties to be imposed upon the employees of the Board and market committees, including the manner of imposing such penalties and the right of appeal against such penalties;
- (xxxii) nature and status of the servants of the Board and market committees;
- (xxxiii) the regulation of advances, if any, given to producers by brokers or dealers;
- (xxxiv) any other matter which is to be or may be prescribed.

(3) The Rules made under this section shall, as soon as may be after they are made, be laid before the Legislative Assembly.

Bye-laws.

34. (1) Subject to any rules made by the State Government under section 33, the Board may, in respect of the notified market area, make bye-laws for:—

- (i) the regulation of business;
- (ii) the conditions of trading;
- (iii) the appointment and punishment of its employees and the employees of the market committees;
- (iv) the payment of salaries, gratuities and leave allowance to such employees; and
- (v) the delegation of powers, duties and functions to the sub-committee, if any, provided by section 17.

(2) No bye-law shall take effect until it has been published for information and notified in the Rajpatra, Himachal Pradesh.

Power of State Government to amend schedule.

35. The State Government may, by notification, add to the schedule to this Act any other item of agricultural produce or amend or omit any item of such produce specified therein.

Trial of offences.

36. (1) No offence made punishable by this Act or any rule or bye-law made thereunder shall be tried by a court inferior to that of a Magistrate of the first class.

(2) Prosecutions under this Act may be instituted by the Chairman, Secretary or, in their absence, by any other person duly authorised by a resolution passed by the Board or a committee in this behalf.

(3) All fines received from an offender shall be credited to the Government revenues and grant equivalent to such fines, shall be paid to the market committee.

Appeal.

37. (1) An appeal against the order passed under section 8 shall lie to the Board in the manner prescribed.

(2) Any person objecting to the order passed by the Board may appeal to the State Government whose decision in the matter shall be final.

Recovery of sums due to State Government from market committee.

38. (1) Every sum due from a committee to the State Government or the Board shall be recoverable as an arrear of land revenue.

(2) Every sum due to a committee from any person shall be recoverable as an arrear of land revenue.

39. Notwithstanding anything contained in this Act, the State Government shall have the power of reversing or modifying any order of the Board or any of its officers passed or purporting to have been passed under this Act, if it considers it to be not in accordance with this Act or the rules or bye-laws made thereunder.

Revision

40. Whenever it is found that any amount due to the Board or a committee is irrecoverable or should be remitted, or whenever any loss of the Board's or a committee's money or stores or other property occurs through the fraud or negligence of any person or for any other cause and such property or money is found to be irrecoverable, the facts shall be reported to the Board or committee, as the case may be, and the Board, with the approval of the Government, and the committee, with the approval of the Board, may order the amount or value of the property to be written off as loss irrecoverable or remitted, as the case may be, provided that in case of a committee, if in any case the amount due or the value of such property is in excess of two hundred rupees, such order shall not take effect without the approval of the State Government.

Power to write off irrecoverable fees etc.

41. (1) With the previous approval of the Chairman of the Board, a committee or, with the authorisation by a resolution of a committee, its Chairman, may accept from any person against whom a reasonable suspicion exists that he has committed an offence under this Act or any rule or bye-law made thereunder, a sum of money by way of composition for such offence.

Power to compound offences.

(2) On the payment of such amount of money to the committee or to its Chairman, as the case may be, no further proceedings shall be taken against the suspected person, who, if in custody, shall be discharged.

42. Subject to such restrictions as may be prescribed, the Secretary of the market committee or any other officer authorised by the committee in this behalf, may, for carrying out any of the duties imposed on the market committee by or under this Act, at all reasonable times, enter and search any place, premises or vehicles.

Power of entry and search.

43. (1) Every person shall be liable for the loss, waste or misapplication of any money or other property belonging to committee, if such loss, waste or misapplication is proved, to the satisfaction of the Board, to be the direct consequence of his neglect or misconduct in the performance of duties as a Chairman, Vice-Chairman, member or an employee of the committee and he may, after being given an opportunity by a written notice to show cause why he should not be required to make good the loss, be surcharged with the value of such property or the amount of such loss by the Board, and if the amount is not paid within one month from the expiry of the period of appeal prescribed by sub-section (3) shall be recoverable as arrears of land revenue:

Liability of member or employee of committee or the Board.

Provided that no such person shall be called upon to show cause after the expiry of a period of one year from the occurrence of such loss, waste or misapplication or after the expiry of one year from the time of his ceasing to be a member or an employee.

(2) Every person shall be liable for the loss, waste or misapplication of any money or other property belonging to the Board, if such loss, waste or misapplication is proved to the satisfaction of the State Government to be direct consequence of his neglect or misconduct in the performance of duties as a member or an employee of the Board, and he may, after being given an opportunity by a written notice to show cause why he should not be required to make good the loss, be surcharged with the value of such property

or the amount of such loss by the State Government and if the amount is not paid within one month from the expiry of the period of appeal prescribed by sub-section (3), it shall be recoverable as arrears of land revenue:

Provided that no such person shall be called upon to show cause after the expiry of a period of one year from the occurrence of such loss, waste or misapplication or after the expiry of one year from the time of his ceasing to be a member or an employee.

(3) The person against whom an order under sub-section (1) or sub-section (2) is made may, within one month of the service of such order, appeal to the State Government which shall have the power of confirming, modifying or disallowing the surcharge.

Repeal and savings.

44. The Punjab Agricultural Produce Markets Act, 1961, as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organization Act, 1966, and the Patiala Agricultural Produce Markets Act, 2004 BK., as in force in the areas comprised in Himachal Pradesh immediately before 1st November, 1966, are hereby repealed:

23 of 1961

31 of 1966

Provided that such repeal shall not affect:—

- (a) the previous operation of any Act so repealed or anything duly done or suffered thereunder;
- (b) any right, privilege, obligation or liability acquired or incurred under any Act so repealed;
- (c) any penalty, forfeiture or punishment incurred in respect of any offence committed against any Act so repealed; or
- (d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted continued or enforced and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed:

Provided further that anything done or any action taken under the Acts so repealed shall be deemed to have been done or taken under this Act and shall continue to be in force accordingly, unless and until superseded by anything done or any action taken under this Act:

Provided further that the Himachal Pradesh Marketing Board constituted under the Patiala Agricultural Produce Markets Act, 2004 BK.; and functioning immediately before the commencement of this Act shall, till the Board is duly established and constituted under section 3, continue to function as if that Board had been constituted under the provisions of this Act, and all the employees in the service of the Himachal Pradesh Marketing Board immediately before the commencement of this Act, shall be deemed to be the employees of the said Board and their emoluments and other conditions of service shall not be varied to their disadvantage without the prior approval of the Government:

Provided further that every market committee constituted under the Patiala Agricultural Produce Markets Act, 2004 BK., and functioning before the commencement of this Act, shall continue to function as if that committee had been constituted under section 10 and their members including the Chairman and Vice-Chairman shall hold office till a new committee is set up under this Act or the expiry of two years, whichever is earlier.

THE SCHEDULE
[See section 2 (a) and section 35]

<i>Item</i>	<i>English Name</i>	<i>Hindi Name</i>
1. Cereals	1. Paddy	Dhan
	2. Rice	Chawal
	3. Wheat	Kanak
	4. Maize	Makki
	5. Barley	Jau
	6. Finger millet	Ragi
	7. Haraka	Kodra
	8. Common millet	Cheena
	9. Buck wheat	Kutu
	10. Italian millet	Kangoone
	11. Spiked millet	Bajra
2. Pulses	1. Pigeon pea	Arhar
	2. Lentil	Massur
	3. Black gram	Urd
	4. Green gram	Moong
	5. Peas dry	Matar khushk
	6. Horse gram	Kulthi
	7. Cow peas	Lobhia
	8. Pulses split	Dal Dali
	9. Gram	Chana
3. Oilseeds	1. Mustard	Sarson
	2. Indian Colza	Rai
	3. Indian rape	Toria
	4. Linseed	Alsi
	5. Groundnut shelled and unshelled.	Mungphali
	6. Sesamum	Til
	7. Rochet	Taramira
	8. Cotton seed	Banaula
4. Vegetable Oils	1. All vegetable oils	Sab khane-ke-tel
5. Fruits	1. Mango	Am
	2. Banana	Kela
	3. Lichies	Lichies
	4. Sweet orange	Malta
	5. Lemon	Neemboo
	6. Grapes	Angoor
	7. Pomegranate	Anar
	8. Pomegranate-seed	Anardana
	9. Apple	Saib
	10. Orange	Sangtra
	11. Peach	Aru
	12. Plum	Alucha
	13. Pears	Naspati
	14. Guava	Amrud
	15. Chilgoza	Niyoz
	16. Apricot	Khurmani
	17. Cherry	Cherry
	18. Strawberry	Rasbhari

<i>Item</i>	<i>English Name</i>	<i>Hindi Name</i>
6. Vegetables	19. Persimon	Japani phal
	20. Watermelon	Tarbuz
	21. Walnut	Akhrot
	1. Potatoes	Alu
	2. Onion dry	Piaz khushk
	3. Onion green	Piaz hara
	4. Brinjal	Bainga
	5. Bottle gourd	Ghia //
	6. Lady's finger	Bhindi
	7. Red gourd	Halwa kadu
	8. Tomato	Tamator
	9. Cauliflower	Phulgobhi
	10. Cabbage	Bandh gobhi
	11. Knol Khol	Gandh gobhi
	12. Sponge gourd	Ghia-tori
	13. Green peas	Matar hari
	14. French bean	Pharas bean
	15. Cow peas	Lobhia hara
	16. Leaves of Indian colza, mustard and spanich etc.	Sag
	17. Carrot	Gajar
	18. Raddish	Muli
	19. Turnip	Salgam
	20. Tinda gourd	Tinda
	21. Sweet potato	Shakarkandi
	22.	Kathal
	23.	Zamikand
	24. Arum	Arbi
	25.	Kachalu
	26. Fenu greek	Methi hari
	27. Hillcapsicum	Mirch badi
	28. Bitter gourd	Karela
	29. Ash gourd	Petha
	30. Cucumber	Khira
7. Fibres	1. Cotton ginned and unginned.	Kapas aur rui
8. Animal Husbandry Products.	1. Poultry	—
	2. Eggs	Anda
	3. Cattle	—
	4. Sheep	Bhed
	5. Goat	Bakri
	6. Wool	Oon
	7. Butter	Makhan
	8. Ghee	Ghee
	9. Milk	Dudh
	10. Hides and skins (Processed and cured).	Khal
	11. Goat meat and Mutton.	Bakri aur Bhed-ka-gosht.

<i>Item</i>	<i>English Name</i>	<i>Hindi Name</i>
	12. Fish	Machhali
9. Condiments, spices and others.	1. Ginger	Adarak
	2. Garlic dry	Lahasn-khushk
	3. Chillies dry and green.	Mirch
	4. Turmeric	Haldi
	5. Coriander	Dhaniya Khushk and hara.
10. Narcotics	1. Tobacco	Tambaku
11. Miscellaneous	1. Sugar cane	Ganna
	2. Gur and shakkar	Gur aur shakkar
	3.	Khandsari
	4. Oil cakes	Khali
	5. Bark of walnut	Dandassa
	6. —	Dhoop
	7. Edible mushroom	Guchi
	8. —	Banaphsa
	9. Bhabar grass	Bhabar ghas
	10. Rosin	Baroza

STATEMENT OF OBJECTS AND REASONS

At present, there are two Acts in force in Himachal Pradesh in regard to the establishment of markets for agricultural produce and other matters connected therewith. These are, the Patiala Agricultural Produce Markets Act, 2004 BK., which is in force in the areas comprised in Himachal Pradesh immediately before 1st November, 1966, and the Punjab Agricultural Produce Markets Act, 1961, which is in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966. With a view to bringing about uniformity in the matter of such law, it is necessary to have one unified law for the whole of the Himachal Pradesh and this Bill seeks to achieve the object.

SIMLA:
The 6th March, 1969.

SUKH RAM,
Development Minister.

FINANCIAL MEMORANDUM

Under the provisions of the proposed Bill, there are provisions to constitute Himachal Pradesh Marketing Board and Market Committees, which will create their own funds for meeting their day to day expenditure. There is no financial liability of the Government in this regard.

MEMORANDUM ON DELEGATED LEGISLATION

Clause 6 of the Bill empowers the State Government to issue orders that no private market will be opened in or near places declared as markets.

Clause 33 of the Bill empowers the State Government to make rules in respect of the matters enumerated therein. These rules shall, as soon as may be after they are made, be laid before the Legislative Assembly.

Clause 34 empowers the Board to frame bye-laws in respect of the notified market areas, in regard to the matters mentioned therein. These bye-laws shall be subject to the rules made by the Government under clause 33.

Under clause 35, the Government has the power to add to the Schedule to this Act any other item of agricultural produce or amend or omit any item of such produce specified therein.

Bill No. 2 of 1969.

THE HIMACHAL PRADESH BRICKS (CONTROL) BILL, 1969

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A BILL

to regulate the manufacture, storage, distribution, transport, acquisition and disposal of bricks in the Union territory of Himachal Pradesh, and for matters connected therewith.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twentieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh Bricks (Control) Act, 1969.

Short title
and extent.

(2) It extends to the whole of the Union territory of Himachal Pradesh.

2. In this Act, unless the context otherwise requires,—

Definitions

- (a) "brick" means any piece of burnt clay fired in kiln and having a geometrical shape;
- (b) "dealer" means any person who is engaged in the business of buying or selling, or otherwise dealing in, bricks, and includes his representative or agent;
- (c) "Government" means the Administrator of the Union territory of Himachal Pradesh;
- (d) "kiln" means a structure used for burning bricks;
- (e) "Official Gazette" means the Rajpatra, Himachal Pradesh.

3. If the Government is of opinion that it is necessary or expedient so to do for maintaining or increasing the supply of bricks or for securing their equitable distribution and availability at fair prices, it may, by Order notified in the Official Gazette, provide—

Powers to
control
manufac-
ture, stor-
age, distri-
bution etc.
of bricks.

- (a) for regulating by licences, permits or otherwise the manufacture, storage, distribution, transport, acquisition or disposal of bricks;
- (b) for collecting any information or statistics with a view to the regulating of the aforesaid matters;
- (c) for the grant or issue of licences, permits or other documents and the charging of fees therefor;
- (d) for controlling the prices at which bricks may be bought or sold;
- (e) for requiring dealers or kiln owners to maintain and produce for inspection such accounts and records regarding bricks and to furnish such information relating thereto, as may be specified in the order;
- (f) for any incidental and supplementary matters including in particular the entering and search of premises and vehicles and the seizure by a person authorised to make such search of the bricks in respect of which such person has reason to believe that contravention of any Order made under this Act has been, is being, or is about to be, committed.

4. The Government may, by Order notified in the Official Gazette, direct that the power to make orders under section 3 shall, in relation to such matters and subject to such conditions, if any, as may be specified in the Order, be exercisable also by such officer, or authority subordinate to the Government as may be specified in the Order.

Delegation
of powers.

Effect of orders inconsistent with other enactments.

5. Any order made under section 3 shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or any instrument having effect by virtue of any enactment other than this Act.

Provisions of sections 102 and 103 of the Code of Criminal Procedure to apply to search and seizure.

6. The provisions of sections 102 and 103 of the Code of Criminal Procedure, 1898 relating to search and seizure shall, so far as may be, apply in relation to every search made in pursuance of any order made under this Act and to every seizure made in the course of such search.

5 of 1898

Penalties.

7. If any person contravenes any order made under section 3,—

- (a) he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both;
- (b) any property in respect of which the order has been contravened or such part thereof as to the court may deem fit shall be forfeited to the Government:

Provided that if the court is of opinion that it is not necessary to direct forfeiture in respect of the whole or as the case may be, any part of the property, it may, for reasons to be recorded, refrain from doing so.

Attempts and abetments.

8. Any person who attempts to contravene, or abets a contravention of, any order made under section 3 shall be deemed to have contravened that order.

False statements.

9. If any person,—

- (i) when required by any order made under section 3 to make any statement or furnish any information, makes any statement or furnishes any information which is false in any material particular and which he knows or has reasonable cause to believe to be false, or does not believe to be true, or
- (ii) makes any such statement as aforesaid in any book, accounts, record, declaration, return or other documents which he is required by any such order to maintain or furnish,

he shall be punishable with imprisonment for a term which may extend to three years or with fine, or with both.

Offences by companies.

10. (1) If the person contravening an order made under section 3 is a company, every person who, at the time the contravention was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary

or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation;—For the purposes of this section—

(a) “company” means any body corporate and includes a firm or other association of individuals;

(b) “director” in relation to a firm means a partner in the firm.

5 of 1898

11. Notwithstanding anything contained in the Code of Criminal Procedure, 1898, every offence punishable under this Act shall be cognizable.

Cognizance of offences.

5 of 1898

12. Notwithstanding anything contained in the Code of Criminal Procedure, 1898, any Magistrate or Bench of Magistrates empowered for the time being to try in a summary way the offences specified in sub-section (1) of section 260 of the said Code may, on application in this behalf made by the prosecution, try in accordance with the provisions contained in sections 262 to 265 of the said Code any offence punishable under this Act.

Power to try offences summarily.

1 of 1872

13. Where an order purports to have been made and signed by an authority in exercise of any power conferred by or under this Act, a court shall presume that such order was made by that authority within the meaning of the Indian Evidence Act, 1872.

Presumption as to orders.

14. (1) No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of any order made under section 3.

Protection of action taken under this Act.

(2) No suit or other legal proceedings shall lie against the Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of any order made under section 3.

1 of 1949

15. (1) The East Punjab Control of Bricks Supplies Act, 1949 as in force in the territories transferred to the Union territory of Himachal Pradesh by sub-section (1) of section 5 of the Punjab Reorganisation Act, 1966, is hereby repealed.

Repeal and savings.

31 of 1966

(2) Notwithstanding such repeal, any order made under the Act hereby repealed and in force immediately before the commencement of this Act shall be deemed to have been made under this Act and shall, in so far as it is not inconsistent with the provisions of this Act, continue in force and accordingly any appointment made, licence or permit granted or direction issued under any such order and in force immediately before such commencement shall continue in force until and unless it is superseded by any appointment made, licence or permit granted or direction issued under this Act.

STATEMENT OF OBJECTS AND REASONS

In the hilly areas of composite Punjab, which were merged with Himachal Pradesh as a result of re-organisation of Punjab with effect from 1st November, 1966, the Punjab Control of Bricks Supplies Act, 1949 is in force. On the other hand no such law is operative in the old areas of Himachal Pradesh. In order to bring about uniformity in both these areas, in so far as the manufacture and supply of bricks is concerned, the enactment of a unified law for the whole of Himachal Pradesh is necessary and this Bill seeks to achieve the aforesaid object.

Act 1 of 1949

SIMLA:

The 6th March, 1969.

RAM LAL,

Education Minister.

FINANCIAL MEMORANDUM

Nil

MEMORANDUM ON DELEGATED LEGISLATION

Clause 3 of the Bill empowers the Government to issue orders for controlling the manufacture and supply of bricks or for securing their equitable distribution and availability at reasonable prices.

THE HIMACHAL PRADESH INSTRUMENTS (CONTROL OF NOISES) BILL, 1969

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A BILL

to control the use and play of instruments such as loud-speakers, microphones, amplifiers etc.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twentieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh Instruments (Control of Noises) Act, 1969.

Short title,
extent and
commence-
ment.

(2) It shall extend to the whole of Himachal Pradesh.

(3) It shall come into force in such areas and on such date as the Government may, by notification in the Official Gazette, direct.

2. In this Act, unless there is anything repugnant in the subject or context,—

Definitions

(a) "District Magistrate" means a District Magistrate appointed under section 10 of the Code of Criminal Procedure, 1898;

(b) "Government" means the Government of Himachal Pradesh;

(c) "Instrument" means a loud-speaker, an amplifier and such other apparatus for the play of sounds as may be declared to be an instrument under this Act by the Government;

(d) "Notification" means notification published under proper authority, in the Official Gazette;

(e) "Official Gazette" means Rajpatra, Himachal Pradesh.

3. No person shall use or operate any instrument in or upon any premises at such pitch or volume as to be audible beyond the precincts thereof except under the written permission of the District Magistrate or any officer authorised by him, in this behalf and under such conditions as may be attached to it.

Restriction
on the use
of instru-
ments.

4. No person shall use or operate any instrument between ten o'clock in the night and six o'clock in the morning except with the written permission of the District Magistrate or any officer authorised by him in this behalf and under such conditions as may be attached to it.

Limitation
on the use
of instru-
ments.

5. No permission under section 3 or section 4 shall be given unless the application for permission bears a court-fee stamp of the value calculated at the rate of five rupees for every day or part thereof in respect of which the permission is sought:

Fee

Provided that where the permission is either refused or given for a period which is less than the one applied for, the amount of fee shall be refunded wholly or proportionately as the case may be.

Penalty.	6. Whoever contravenes the provisions of the Act shall be liable to be punished with imprisonment of either description for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.	
Offences to be cognizable.	7. Notwithstanding anything contained in the Code of Criminal Procedure, 1898, an offence punishable under this Act shall be cognizable.	5 of 1898
Repeal and savings.	8. The Punjab Instruments (Control of Noises) Act, 1956, as in force, in the areas added to Himachal Pradesh under section 5 of the Punjab Reorganisation Act, 1966, is hereby repealed:	36 of 1956 31 of 1966
	Provided that anything done or any action taken (including any notification issued, permission granted or proceedings commenced or continued) under the provisions of the said Act, shall be deemed to have been done or taken, under the corresponding provision of this Act.	

STATEMENT OF OBJECTS AND REASONS

The Punjab Instruments (Control of Noises) Act, 1956, the object of which is to control the use and play of instruments such as loud-speakers, microphones, amplifiers, etc., is in force in the areas added to Himachal Pradesh as a result of the reorganisation of the State of Punjab. But no such law is in force in the areas comprised in Himachal Pradesh immediately prior to the said reorganisation. With a view to bringing about uniformity in the matter of such law, it has been considered necessary to enact a unified law on the subject for the whole of Himachal Pradesh and this Bill seeks to achieve the aforesaid object.

SIMLA:

The 6th March, 1969.

Y. S. PARMAR,
Chief Minister.

FINANCIAL MEMORANDUM

Clause 5 of the Bill provides that every application for permission to use or operate an instrument under the Bill shall bear a court-fee stamp of the value calculated at Rs. 5 for every day or part thereof in respect of which the permission is sought. As to how much income will accrue to the Government from such fees cannot exactly be anticipated. However, it is expected that there will be an annual income of about Rs. 2,000. There will however, be no expenditure as the implementation of the Act will be carried through the agency of the existing staff.

MEMORANDUM ON DELEGATED LEGISLATION

Nil

RECOMMENDATION OF THE ADMINISTRATOR UNDER SECTION 23 OF THE GOVERNMENT OF UNION TERRITORIES ACT, 1963

(File No. 1-15/68-Home)

The Administrator, Himachal Pradesh having been informed of the subject matter of the Himachal Pradesh Instruments (Control of Noises) Bill, 1969, recommends under section 23 of the Government of Union Territories Act, 1963, the introduction of the said Bill in the Legislative Assembly.

